

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM HUDSON,

Case No. 20-cv-133222

Plaintiff,

HON. _____
Magistrate Judge _____

vs.

BOOKS-A-MILLION, INC.,

Defendant.

TODD J. STEARN (P51496)
LAW OFFICES OF TODD J. STERN, P.C.
Attorneys for Plaintiff
29829 Greenfield Road, Suite 101
Southfield, MI 48076
Telephone: (248) 744-5000
Facsimile: (248) 744-5002
Email: todd@tjslawfirm.com

KEVIN J. PLAGENS (P55992)
ERIN R. KATZ (P71604)
KOPKA PINKUS DOLIN PC
Attorneys for Defendant
32605 W. Twelve Mile Road, Suite 300
Farmington Hills, MI 48334
Telephone: (248) 324-2620
Facsimile: (248) 324-2610
Email: KJPlagens@kopkalaw.com
ERKatz@kopkalaw.com
assistant: KDRamsay@kopkalaw.com

NOTICE OF REMOVAL

NOW COMES Defendant, BOOKS-A-MILLION, INC. (“Defendant”), by and through its counsel, KEVIN J. PLAGENS, ERIN R. KATZ, and KOPKA PINKUS DOLIN PC, remove this action from the Oakland County Circuit Court to

the United States District Court for the Eastern District of Michigan, Southern Division. In support of this Notice of Removal, Defendant states as follows:

PROCEDURAL BACKGROUND AND GROUNDS FOR REMOVAL

1. On or about October 7, 2020, Plaintiff William Hudson (“Plaintiff”) commenced this action by filing a Complaint in the Oakland County Circuit Court and causing a Summons to be issued. *See Ex. A*, Summons and Complaint.
2. On October 30, 2020, Plaintiff’s Complaint was served upon Defendant by way of its resident agent, The Corporation Company.
3. On November 20, 2020, counsel filed an Appearance, Answer, Affirmative Defenses, and Demand for Trial by Jury on behalf of Defendant. *See Ex. B*, Defendants’ Pleadings.
4. On December 7, 2020, counsel for Plaintiff served Initial Disclosures on Defendant. *See Ex. C*, Oakland County Circuit Court Docket.
5. No other pleadings, orders, or documents were filed in this case.
6. Pursuant to 28 U.S.C. § 1446(b)(3), this Notice of Removal is filed within thirty (30) days of receipt of being Plaintiff’s counsel’s oral statement that Plaintiff seeks damages in excess of \$75,000.00 which first allowed Defendant to ascertain that the case is one which is removable. This information was provided by Plaintiff’s counsel via telephone on November 19, 2020. This oral statement was confirmed via email correspondence on December 7, 2020. *See Ex. D*, Email

Correspondence. Therefore, this Notice is timely filed pursuant to 28 U.S.C. § 1446(b).

7. This Court is in the district and division “embracing the place where [the State Court] action is pending.” 28 U.S.C. § 1441(a). The Oakland County Circuit Court is located in the Eastern District of Michigan.

DIVERSITY JURISDICTION

8. This case is a civil action of which this Court has original diversity jurisdiction pursuant to 28 U.S.C. §1332(a) because the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest, costs, and attorneys’ fees, and this action is between citizens of different states, as demonstrated more fully below:

a. **Plaintiff Is A Citizen Of Michigan:** A person is a citizen of the state in which he or she is domiciled. *See Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828 (1989). “[D]omicile is established by physical presence in a place in connection with a certain state of mind concerning one’s intent to remain there.” *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30, 48 (1989). Defendant is informed and believe that Plaintiff is domiciled in, and citizen of, the State of Michigan. In his Complaint, Plaintiff alleges that he is a resident of the City of Auburn Hills, County of Oakland, and State of Michigan. Ex. A. Plaintiff has not

alleged an intent to move or leave this domicile. Ex. A. Therefore, for diversity purposes, Plaintiff is domiciled in and citizen of the State of Florida.

b. Defendant Is A Citizen Of Delaware and Alabama:

Defendant is a corporation incorporated under the laws of the State of Delaware and has its principal place of business in Alabama. “For purposes of determining diversity jurisdiction, a corporation can be a citizen of two states: (1) its state of incorporation; and (2) the state of its principal place of business.” *Freeman v. Unisys Corp.*, 870 F. Supp. 169, 172 (E.D. Mich. 1994) (citing 28 U.S.C. § 1332(c)). Accordingly, Defendant is a citizen of Delaware and Alabama, and is not now and never has been a citizen of the State of Michigan within the meaning of 28 U.S.C. § 1332(c).

9. Therefore, complete diversity exists because Plaintiff is a citizen of Michigan and Defendant is a citizen of Delaware and Alabama.

10. Pursuant to L.R. 81.1(a) and (b) and 28 U.S.C. § 1332(a), the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest, costs, and attorney fees. Plaintiff’s counsel has explicitly stated that Plaintiff is seeking damages that exceed \$75,000.00 due to his alleged injuries. Ex. D. Although Defendant denies the allegations in Plaintiff’s Complaint and denies any liability to Plaintiff whatsoever, if those allegations are proven to be true, the amount in

controversy exceeds the sum or value of \$75,000.00, exclusive of interest, costs and attorney's fees.

11. A Notice of Filing Notice of Removal and a copy of this Notice of Removal to Federal Court will be filed with the Oakland County Circuit Court as required by 28 U.S.C. § 1446(d) and copies of the same will be served upon Plaintiff.

12. Based upon the foregoing, Defendant is entitled to remove this action to this Court under 28 U.S.C. § 1331, et seq.

13. In filing this Notice of Removal, Defendant does not waive any defenses that may be available to it, including but not limited to, those under Fed. R. Civ. P 12(b).

14. This Notice of Removal is filed in compliance with Fed. R. Civ. P. 11 and Local Rules of the United States District Court for the Eastern District of Michigan.

WHEREFORE, Defendant respectfully requests that this Court take jurisdiction over this matter and grant such other relief as the Court deems proper.

Respectfully Submitted,

KOPKA PINKUS DOLIN PC

/s/ Erin R. Katz

By: _____
KEVIN J. PLAGENS (P55992)
ERIN R. KATZ (P71604)
Attorneys for Defendant
32605 W. Twelve Mile Road, Suite 300
Farmington Hills, MI 48334
(248) 324-2620

Dated: December 17, 2020

CERTIFICATE OF SERVICE

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

I, Ayana M. Jackson, am an employee of KOPKA PINKUS DOLIN PC, and I certify that I e-filed the foregoing document on December 17, 2020, using the *ECF e-filing system* which will send a copy of this document together with notification to all counsel of record; and that I mailed and emailed a copy of this document to any non-e-filing participants.

/s/ Ayana M. Jackson

Ayana M. Jackson